

and disorderly houses has passed through the above-mentioned stages. It is always a question of expediency whether to leave a subject under the mores, or to make a police regulation for it, or to put it into the criminal law. Betting, horse racing, dangerous sports, electric cars, and vehicles are cases now of things which seem to be passing under positive enactment and out of the unformulated control of the mores. When an enactment is made there is a sacrifice of the elasticity and automatic self-adaptation of custom, but an enactment is specific and is provided with sanctions. Enactments come into use when conscious purposes are formed, and it is believed that specific devices can be framed by which to realize such purposes in the society. Then also prohibitions take the place of taboos, and punishments are planned to be deterrent rather than revengeful. The mores of different societies, or of different ages, are characterized by greater or less readiness and confidence in regard to the use of positive enactments for the realization of societal purposes.

**63.** How laws and institutions differ from mores. When folkways have become institutions or laws they have changed their character and are to be distinguished from the mores. The element of sentiment and faith inheres in the mores. Laws and institutions have a rational and practical character, and are more mechanical and utilitarian. The great difference is that institutions and laws have a positive character, while mores are unformulated and undefined. There is a philosophy implicit in the folkways; when it is made explicit it becomes technical philosophy. Objectively regarded, the mores are the customs which actually conduce to welfare under existing life

conditions. Acts  
under the laws and institutions are conscious and  
voluntary;  
under the folkways they are always unconscious and  
involuntary,  
so that they have the character of natural necessity.  
Educated;\nreflection and skepticism can disturb this  
spontaneous relation.  
The laws, being positive prescriptions, supersede  
the mores so  
far as they are adopted. It follows that the mores  
come into;  
operation where laws and tribunals fail. The mores  
cover the  
great field of common life where there are no laws  
or police  
regulations. They cover an immense and undefined  
domain, and